

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

\$10,560.00 U.S. CURRENCY,

Defendant.

NO. CV-08-033-JLQ

**ORDER DENYING MOTION TO  
DISMISS**

Before the court is the Plaintiff United States' Motion to Dismiss or Alternative Motion to Enforce Court's Orders & Appropriate Terms (Ct. Rec. 38), heard by the court via telephonic oral argument on January 23, 2009. The court notes that the Claimant Fausett has not responded to the Government's motion which could have resulted in an adverse order to Claimant Fausett pursuant to Local Rule 7.1(h).

**IT IS HEREBY ORDERED:**

1. The Government's Motion to Dismiss (Ct. Rec. 38) is **DENIED**. "A terminating sanction, whether default judgment against a defendant or dismissal of a plaintiff's action, is very severe...Only 'willfulness, bad faith, and fault' justify terminating sanctions." *Connecticut General*, 482 F.3d at 1096, citing *Jorgensen v. Cassidy*, 320 F.3d 906, 912 (9th Cir. 2003). Claimant Fausett has put forth some degree of effort in responding to the Government's interrogatories, and the court does not find evidence of bad faith or a desire to hide the truth of the matter. General public policy and the policy of this court favor the disposition of cases on their merits. Dismissal of Mr. Fausett's claim at this juncture would frustrate that policy.

